REMARKS

Applicant wishes to thank the Examiner for reviewing the present application.

Claim Amendments

Claim 1 has been rewritten to clarify the method recited, in particular the way in which paths are determined between each point being evaluated and a seed point to determine a confidence that the data point is part of the structure to be segmented. Claim 1 also clarifies that additional paths (i.e. a plurality of paths) may be examined if appropriate to determine a path with the highest confidence level. It is believed that claim 1, thus amended, clearly distinguishes over George and Udupa consistent with Applicant's previous remarks (submitted December 17, 2008).

Claims 3-7 and 9-22 have been amended for consistency with rewritten claim 1.

Claim 8 has been cancelled.

Claim 23 has been rewritten to be directed to a computer readable medium per amended claim 1. Claim 24 has been rewritten to be similar to claim 3 but dependent on amended claim 23. Claims 25, 26, and 27 have also been rewritten to be dependent on claim 23 and correspond to claims 4, 6, and 10.

Claims 28-29 remain unchanged and have been deemed allowable. Claim 30 has been amended to be identical to previous claim 32 for continuity with claims 28-29.

Claims 31 and 32 are similar to claims 16 and 22 but dependent on claim 23 as amended.

No new subject matter is believed to have been added by way of these amendments.

Claim Rejections – 35 U.S.C. 103 and Advisory Action

Applicant has carefully considered the Examiner's remarks set forth in the above-noted Advisory Action which are based on the previous rejections under 35 U.S.C. 103 regarding George and Udupa. Applicant believes that the previous remarks submitted on December 17, 2008 still apply but believes that claim 1, as amended, clarifies the previously argued distinctions with respect to George and Udupa. As such, these remarks will not be reiterated. However, Applicant wishes to briefly address the Examiner's remarks in the Advisory Action with respect to defining a path between a data point and the seed point.

Claim 1 as amended requires determining a path between a point being considered and the seed point, examining variations in a parameter along the path and defining a confidence level for respective points based on the variations and the distance from the seed point along the path. The method also comprises determining if additional paths exist and, if so, repeating the process for each such path and choosing a path with a highest confidence level. Applicant respectfully submits that neither George nor Udupa teaches such steps.

The Examiner has, in the Advisory Action, relied on Figure 15 in George as defining a path
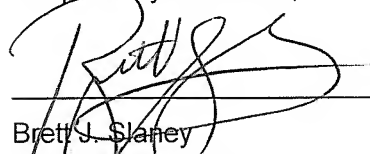
between points in a structure since adjacent points inherently define a path. Applicant believes this is a leap of logic based on hindsight. In particular, the alleged path shown in George is not determined before evaluating the points but rather is only "inherently defined" <u>after the evaluation</u>. This is not equivalent to selecting a point, determining a path between the point and a seed point, and then evaluating points along the path as recited in claim 1. Moreover, George does not recognize that multiple paths may exist, let alone teach examining such multiple paths to ensure that the path is actually in the structure. As previously argued, this covers situations where distance alone does not determine connectivity. George instead draws boundaries around each point and looks for overlap between boundaries to identify connectivity. George simply does not purposely define a path (or multiple paths) between the point and a seed point and then evaluate along the path as recited in claim 1. The Examiner appears to have relied on an inherent property of the evaluation <u>after the evaluation is done</u> which is neither recognized nor utilized by George. George is entirely silent as to defining a path and evaluating along the path, let alone doing so for multiple paths. For at least these reasons, Applicant believes that claim 1 as amended is patentable over George. As previously argued, Udupa does not teach what is missing from George and thus claim 1 is believed to be patentable over these references either alone or in combination.

Summary

In view of the foregoing, Applicant believes that claims 1, 3-7, and 9-32 are clearly and patentably distinguished over the references cited and, as such, are in condition for allowance.

Applicant requests early reconsideration and allowance of the present application.

Respectfully submitted,

Brett J. Slaney
Agent for Applicant
Registration No. 58,772

Date: February 13, 2009

BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 2800, Commerce Court West
Toronto ON M5L 1A9
Canada

Tel: 416-863-2518
BS/